

the reach of my voice knows of any amendment, please call the hotline now or we will pass this bill in a few minutes.

Mr. EXON. May I add, Madam President, please come forward now or forever hold your peace. Thank you.

Mr. GORTON. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

#### BOSNIA

Mr. GORTON. Mr. President, last night the President of the United States spoke to the people of the United States in justification of his dispatch of some 20,000 American troops to Bosnia to enforce the agreement entered into last week in Dayton, OH, ending for the time being, at least, the war in Bosnia.

President Clinton, I believe, made the best possible case for keeping a commitment which he made some months ago. I believe that commitment was both unwise and improvident. Nonetheless, it was made by the President.

For me, and I think for most other Members of Congress, the American national security interest in Bosnia is difficult to discern. We will be there in the hopes that we can settle a civil war which has gone on in its present form for some 4 years, but in a more profound fashion for at least 600 years.

The temporary peace which we will be in Bosnia to enforce is not a just peace. In fact, it ratifies almost all of the gains made as a result of the aggression of the Bosnian Serbs, leaves essentially unchallenged the ethnic cleansing, the displacement of people, and the killing of tens of thousands of innocent civilians.

We will be in Bosnia to support a peace of exhaustion, not a peace of justice.

Having said all that, Mr. President, and having spoken on this floor on numerous occasions in favor of an American policy that would have repudiated the arms embargo and allowed the citizens of Bosnia the effective means to fight for their own freedom and independence, we as Americans, we as United States Senators, are now faced with a fait accompli.

The President of the United States has the constitutional authority, in my view, to send troops to Bosnia and has announced that he is going to do so. As a consequence, however unwise we may consider that decision to have been, we are essentially faced with the proposition that to oppose it, to try to put roadblocks in its path, is likely to increase the already considerable danger in which our troops will find themselves on the front lines in Bosnia.

This reaction is one that I think is fairly common among Members of this body. It was expressed by three former National Security Advisers and Secre-

taries of Defense before the Armed Services Committee this morning, and by many outside commentators who have felt this administration's position with respect to Bosnia has been wrong-headed almost from the start.

So, sometime in the next week or 2 weeks, we will be presented here on the floor with some sort of resolution with respect to Bosnia. I do not believe any Member, at this point, can say that he or she will vote in favor of it sight unseen or, for that matter, will vote against it sight unseen. I hope we will be able to come up with a resolution which will have at least a wide degree of support here in this body, a broader and less partisan degree of support than was the case a few years ago with respect to the war in the gulf. Such a resolution, I believe, will concentrate on the situation as it exists on the ground today, given the President's decision, rather than with the process that led the President to this decision, one which gives unequivocal support to our troops, to the men and women whose lives will be at risk, to the maximum possible extent without saying we necessarily agree with the policy that brought them there in the first place.

We can all hope that in a period of 1 year the civil passions which have been so brutally expressed during the last 4 years will be extinguished. We can be pardoned for believing that is a very considerable long shot and that our troops, a year from now, are likely to come home leaving behind them exactly the situation they found when they arrived.

Nevertheless, this is the point we have reached. The President has done his best to explain it to the people of the United States, and I am certain that most of them, while they may not like the decision, will certainly provide support for those troops themselves.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### INTERSTATE COMMERCE COMMISSION SUNSET ACT

The Senate continued with the consideration of the bill.

Mr. EXON. Mr. President, the Senator from North Dakota is about to offer an amendment, as I understand it, that he has shown me, and I am opposed to it. But, to accommodate this Senator and the time constraints that I have this afternoon, I wish to make a few appropriate remarks about why, in my opinion, we should not adopt the amendment that is going to be offered by the Senator from North Dakota.

Mr. President, this amendment seeks to change the way mergers are handled

by curtailing the current ICC rail merger review process.

Under the current process, and the process in the bill before us—the bill by the chairman of the committee and this Senator from Nebraska—the so-called Intermodal Surface Transportation Board will approve, disapprove, or condition rail mergers based on the public interest standard currently used by the ICC, not a narrow, Department of Justice-type of antitrust analysis. The public interest standard—which is part of the bill offered by the chairman of the committee and myself—allows the board to weigh the public benefits of a merger against its competitive harms. This standard allows the board to condition and approve mergers that are in the public interest even though they might violate some of the existing antitrust laws. This review has served my farmers, the farmers of South Dakota, and other farmers as well. This concept must be kept as part of our overall transportation network if we want it to run efficiently, especially with regard to rural areas.

The current process provides for the input of the Department of Justice. Let me repeat that. The bill before us, the Pressler-Exon bill, provides for the input of the Department of Justice. This amendment goes beyond that and gives the Department of Justice the final say—or the veto, if you will—on rail mergers.

Even though a merger might be approved by the Board because it is in the public interest, is protection of captive shippers, and is in the best interest of the transportation system, the Department of Justice with all of the lawyers, or some other third party, could still bring suit and force divestiture based on antitrust laws under the Dorgan amendment that is going to be proposed.

Mr. President, this amendment erodes the jurisdiction of the Commerce Committee, and the new ISTB board because it invests too much authority in the Department of Justice.

Lawyers are a very important part of our society, depending on your point of view. It seems to me, Mr. President, that, if we are going to turn the Department of Justice into a veto authority which they did not have under the Interstate Commerce Commission and take away the independent functioning of the board that we are setting up with the Pressler-Exon measure in the Department of Transportation, we are taking a significant step backward. I see nothing whatsoever wrong with the Department of Justice being the lawyer-adviser to the new board that is created. They should be consulted as to whether or not there is a serious violation of antitrust laws. But customarily in business, in my experience in business, and my experience as an individual, I have never let my lawyer make decisions for me. I consult with my lawyer, if I need one. I listen to his counsel and advice as to what is right